

Message Text

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ACTION EB-07

INFO OCT-01 EUR-12 EA-09 ISO-00 AID-05 CIAE-00 COME-00

FRB-01 INR-07 NSAE-00 USIA-15 TRSE-00 XMB-04 OPIC-06

SP-02 CIEP-02 LAB-04 SIL-01 OMB-01 NSC-05 SS-15

STR-04 CEA-01 L-03 H-02 SEC-01 PRS-01 PA-02 JUSE-00

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R 191007Z JUL 76

FM AMEMBASSY BERN

TO SECSTATE WASHDC 2889

INFO AMEMBASSY BRUSSELS

AMEMBASSY LONDON

AMEMBASSY BONN

AMEMBASSY PARIS

AMEMBASSY ROME

AMEMBASSY TOKYO

USMISSION EC BRUSSELS UNN

USMISSION OECD PARIS UNN

AMCONSUL FRANKFURT

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E.O. 11652: N/A

TAGS: EFIN, GW, SZ

SUBJECT: SWISS BANKERS ASSOCIATION ON U.S. BANK LEGISLATION

REF: BERN 3167

1. FOLLOWING IS CONDENSED TEXT SWISS BANKERS' ASSOCIATION
MEMORANDUM REPORTED REFTEL.

2. BEGIN QUOTE: SWISS BANKS' POLICY POSITION ON
H.R. 13876 - INTERNATIONAL BANKING ACT OF 1976 (THE ACT).

3. INTRODUCTORY NOTE: SWISS BANKS HAVE COMBINED TOTAL EIGHT BANK-
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ING OFFICES IN U.S. LOCATED IN MAJOR FINANCIAL CENTERS NEW YORK

CITY, CHICAGO, LOS ANGELES AND SAN FRANCISCO. AMERICAN BANKS HAVE 36 BANKING OFFICES AND BANKING AFFILIATES IN SWITZERLAND - LOCATED BASEL, GENEVA, LAUSANNE, LUGANO, ZUG AND ZURICH. WHILE SWITZERLAND HAS FEDERAL SYSTEM OF CANTONS SIMILAR TO U.S. FEDERAL SYSTEM OF STATES, A SINGLE U.S. BANK CONDUCTS MULTI-CANTON BANKING ACTIVITIES IN GENEVA, LAUSANNE, LUGANO AND ZURICH, WITH APPROVAL U.S. FEDERAL AUTHORITIES, I.E., IN MORE SWISS CANTONS THAN THE NUMBER OF U.S. STATES IN WHICH ALL SWISS BANKS COMBINED CONDUCT BUSINESS.

4. MULTI-STATE BANKING OPERATIONS; NONBANKING OPERATIONS (GLASS-STEAGALL ACT.) - RECIPROCITY: BRANCHING ACROSS STATE LINES AND ENGAGING IN NONBANKING ACTIVITIES (INCLUDING OWNERSHIP OF SECURITIES AFFILIATES) INVOLVE INTERNATIONAL QUOTE RECIPROCITY UNQUOTE QUESTION.

5. SWISS BANKS WOULD PREFER LEGISLATION WHICH ADOPTS PRINCIPLE OF QUOTE RECIPROCITY UNQUOTE UNDER WHICH SWISS BANKS TREATED IN MANNER IN WHICH U.S. BANKS ARE TREATED IN SWITZERLAND. SWISS BANKS RECOGNIZE THIS PHILOSOPHY OF RECIPROCITY NOT ACCEPTABLE TO MANY IN U.S.

6. RE BRANCHING ACROSS STATES LINES, SWISS BANKS ACCEPT PRINCIPLE OF NONDISCRIMINATION, AS NOW APPLIED AT STATE LEVEL, WHICH PERMITS FOREIGN BANK OPERATE IN PARTICULAR STATE IN RETURN FOR COMPARABLE PRIVILEGE IN FOREIGN BANK'S HOME COUNTRY. ALTHOUGH FEW STATES HAVE ENACTED ENABLING LEGISLATION TO GRANT FULL BANKING POWERS TO BRANCHES OF FOREIGN BANKS OR PERMIT ANY ENTRY BY FOREIGN BANKS, THIS SYSTEM HAS WORKED BECAUSE ENTRY HAS BEEN AUTHORIZED BY STATES IN WHICH LOCATED MAJOR FINANCIAL CENTERS (PRIMARILY NEW YORK, ILLINOIS AND MASSACHUSETTS). SWISS BANKS NOT INTERESTED ESTABLISHING NATIONWIDE BRANCH SYSTEMS, BUT INTERESTED BEING PERMITTED OPERATE IN PRINCIPAL U.S. BANKING CENTERS AS AMERICAN BANKS OPERATE OVERSEAS. PROVISION WHICH PERMITS FOREIGN BANK ESTABLISH BRANCH OR AGENCY OUTSIDE QUOTE HOME STATE UNQUOTE WITH APPROVAL BANKING AUTHORITIES IN STATES INVOLVED, ACCEPTABLE TO SWISS BANKS. IN LIGHT MANNER U.S. BANKS OPERATE IN VARIOUS UNCLASSIFIED

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SWISS CANTONS, SWISS BANKS DO NOT UNDERSTAND WHY BRANCH OPERATIONS OF SWISS BANK SHOULD BE CONFINED IN U.S. TO QUOTE HOME STATE UNQUOTE - AS EFFECT OF THE ACT - EVEN IN CASES WHERE PARTICULAR STATE INVOLVED HAS LEGISLATION WHICH PERMITS OPERATION SUCH BRANCH IN STATE.

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SP-02 CIEP-02 LAB-04 SIL-01 OMB-01 NSC-05 SS-15

STR-04 CEA-01 L-03 H-02 SEC-01 JUSE-00 PRS-01 PA-02

/111 W

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R 191007Z JUL 76

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INFO AMEMBASSY BRUSSELS

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AMCONSUL FRANKFURT

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7. RE QUOTE NONBANKING UNQUOTE ACTIVITIES, SWISS BANKS
FEEL RESTRICTIONS ACT WOULD IMPOSE ON SELLING AND DIS-
TRIBUTION ACTIVITIES THEIR SECURITIES AFFILIATES WOULD
BE UNFAIR TO BANKS WHICH AT GREAT EXPENSE ESTABLISHED
SECURITIES AFFILIATES IN U.S. IN COMPLIANCE
WITH EXISTING U.S. LAWS. ADVANTAGE OF FOREIGN BANK WITH
U.S. SECURITIES AFFILIATE OVER DOMESTIC BANKS IS NARROW,
IN VIEW FACT U.S. BANKS ENGAGE IN U.S. IN VARIETY
SECURITIES-RELATED ACTIVITIES. GLASS-
STEAGALL ACT, DESIGNED SEPARATE
U.S. COMMERCIAL BANKING FROM INVESTMENT BANKING, HAS NOT
PREVENTED AMERICAN BANKS FROM ENGAGING IN EXTENSIVE UNDERWRITING
ACTIVITIES OUTSIDE, THROUGH EDGE ACT CORPORATIONS OR OTHER
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SUBSIDIARIES. FOREIGN BANK SECURITIES ACTIVIES IN U.S. OF TYPE NOT PERMITTED TO DOMESTIC BANKS, NOT CONDUCTED BY THE FOREIGN BANKS THEMSELVES BUY BY SEPARATELY INCORPORATED INDEPENDENT AFFILIATES, HAVE ONLY MINOR IMPACT IN U.S.

8. FOREIGN BANK ACT OF 1975 PROPOSED BY F.R.B. (H.R. 5617, S. 958) WHICH WOULD QUOTE GRANDFATHER UNQUOTE ACTIVITIES EXISTING DECEMBER 3, 1974, RECOGNIZED IMPORTANCE OF PROTECTING FOREIGN BANK ACTIVITIES. HAVING PERMITTED FOREIGN BANKS ESTABLISH LEGITIMATE OPERATIONS IN U.S. IN COMPLETE CONFORMITY WITH U.S. LAWS, EXTREMELY UNFAIR AND HARSH TO CHANGE RULES RETROACTIVELY WHICH WOULD REQUIRE DISCONTINUANCE ANY EXISTING OPERATIONS OF AFFILIATED COMPANIES ENGAGED SECURITIES BUSINESS. SUCH ACTIVITIES SHOULD IN FAIRNESS RECEIVE PERMANENT GRANDFATHER STATUS.

9. FEDERAL RESERVE REGULATIONS: SWISS BANKS NOT OPPOSED VESTING IN F.R.B. POWER REGULATE ASPECTS THEIR U.S. OPERATIONS BEARING UPON U.S. INTERNATIONAL OR DOMESTIC MONETARY AND CREDIT POLICIES AND AGREE WITH APPROACH OF THE ACT, THAT PROBLEMS ASSOCIATED WITH FEDERAL RESERVE'S MONETARY AND CREDIT POLICY OPERATIONS ARE CAPABLE OF SATISFACTORY RESOLUTION WITHOUT MAKING MEMBERSHIP IN F.R. SYSTEM MANDATORY FOR FOREIGN BANKS. SWISS BANKS NOT OPPOSED GIVING F.R.B. SPECIFIC STATUTORY AUTHORITY MAKE BRANCHES AND AGENCIES OF FOREIGN BANKS SUBJECT TO RESERVE REQUIREMENTS, INTEREST RATE CEILINGS ON DEPOSITS AND REPORTING REQUIREMENTS. BANKS ALSO SUPPORT PROVISIONS OF ACT WHICH WOULD GIVE F.R.B. AUTHORITY TO PERMIT BRANCHES AND AGENCIES OF FOREIGN BANKS ACCESS TO CLEARING, DISCOUNT AND ADVANCE FACILITIES OF F.R.S.

10. DEPOSIT PROTECTION: SWISS BANKS OPPOSE LEGISLATION WHICH WOULD CHANGE EXISTING LAW IN DISCRIMINATORY FASHION. REQUIRING FOREIGN BANKS POST SECURITY BOND OR PLEDGE OF ASSETS WITH F.D.I.C. - NOTWITHSTANDING FACT FDIC INSURANCE OPTIONAL FOR STATE-CHARTERED DOMESTIC BANKS NOT MEMBERS F.R.S. OR SUBSIDIARIES OF BANK HOLDING COMPANIES AND DESPITE FACT SUCH NON-INSURED BANKS NOT REQUIRED POST ANY BOND OR PLEDGE-WOULD DISCRIMINATE UNCLASSIFIED

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UNFAIRLY AGAINST FOREIGN BANKS. FDIC CHAIRMAN WILLE POINTED OUT IN LETTER DECEMBER 22, 1975, TO HONORABLE FERNAND J. ST. GERMAIN: QUOTE SINCERE ATTEMPT IMPOSE MEANINGFUL RESTRICTIONS THIS TYPE, SUCH AS REQURING DOMESTIC BRANCH

MAINTAIN SUBSTANTIAL PORTION ITS ASSETS IN CUSTODY THIRD PARTY
OR FORM OF OBLIGATIONS OF DOMESTIC OBLIGORS OR REQUIRING
FIDELITY BOND TO GUARANTEE PRESENCE IN U.S. STIPULATED
AMOUNT FOREIGN BANK'S ASSETS, COULD PROVE SO ONEROUS OR
COSTLY FOR FOREIGN BANK TO COMPLY WITH AS TO MAKE
SUCH RESTRICTIONS TANTAMOUNT TO BAR AGAINST FOREIGN BANK'S
OPERATING THROUGH DOMESTIC BRANCH, IF DEPOSIT INSURANCE
MANDATORY, OR AGAINST OPTING FOR INSURANCE, IF DEPOSIT
INSURANCE FOR BRANCHES OPTIONAL. UNQUOTE.

11. ESTABLISHMENT OF NATIONAL BANKS; EDGE ACT CORPORATIONS;
FEDERAL BRANCHES:

SWISS BANKS SUPPORT PROVISIONS ACTION WHICH WOULD PERMIT
FOREIGN BANKS ESTABLISH EDGE ACT CORPORATION SUBSIDIARIES
FOR CONDUCT INTERNATIONAL BANKING AND FINANCING OPERATIONS
IN U S CENTERS OF INTERNATIONAL TRADE FINANCING, AS CASE
DOMESTIC BANKS; WOULD PERMIT FOREIGN CONTROLLED NATIONAL
BANKS HAVE DIRECTORS OF NON-US NATIONALITY; AND WOULD
AUTHORIZE FOREIGN BANK OBTAIN FEDERAL BRANCH LICENSE AS
ALTERNATIVE TO STATE BRANCH LICENSE.

12. EXTRATERRITORIAL EXAMINATION AND REGULATION OF
FOREIGN OFFICES:

AS PROVIDED SECTION 8, F.R.B'S PROPOSED FOREIGN BANK
ACT OF 1975, ACT SHOULD RECOGNIZE THAT AUTHORITY
U.S. BANKING AUTHORITIES TO EXAMINE AND REGULATE
FOREIGN BANK DOES NOT EXTEND TO EXAMINING BANK'S
HOME OFFICE OR ITS NON-U.S. FOREIGN OFFICES OR REGULATE
ORGANIZATION OR INTERNAL AFFAIRS OF FOREIGN BANK,
SINCE FOREIGN BANK'S HOME OFFICE AND NON-U.S. FOREIGN
OFFICES ARE SUBJECT TO EXAMINATION AND REGULATION BY
BANKING AUTHORITIES IN FOREIGN JURISDICTIONS. UNQUOTE

13. FULL TEXT BEING POUCED SUSAN KLINGAMAN (EUR/CE)
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Message Attributes

Automatic Decaptoning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: TEXT, FOREIGN POLICY POSITION, BANK LAW, BANKS
Control Number: n/a
Copy: SINGLE
Draft Date: 19 JUL 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976BERN03198
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D760277-0187
From: BERN
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760746/aaaabnwq.tel
Line Count: 266
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EB
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 5
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: 76 BERN 3167
Review Action: RELEASED, APPROVED
Review Authority: hackerp0
Review Comment: n/a
Review Content Flags:
Review Date: 22 APR 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <22 APR 2004 by ThomasVJ>; APPROVED <31 JAN 2005 by hackerp0>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: SWISS BANKERS ASSOCIATION ON U.S. BANK LEGISLATION
TAGS: EFIN, GE, SZ, US, SWISS BANKERS ASSOC
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006